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wherein said side walls and said closed bottom end form a food holding vessel independent of said pan that generally cover an interior surface of said pan; and

an open top end, said top end extending upwardly beyond said pan top opening and said liner open top end being folded over said top edge of said one or more side walls of said pan;

wherein said pan liner does not have dog ears formed proximate said closed bottom end, thereby preventing entrapment of food portions.

REMARKS:

Reconsideration and allowance of the above-captioned patent application are respectfully requested. Claims 1, 2, 32, 34, and 36 have been amended. Upon entry of the foregoing amendments, claims 1-5, 9, 11, and 28-37 will be pending.

As a preliminary matter, Applicants acknowledge receipt of the "Attachment for PTO-948" outlining changes for prosecution of applications containing drawings. To date, however, no Form PTO-948 has been received in connection with the present application.

Restriction Requirement

Claims 1-27 were originally filed. Pursuant to restriction requirements, claims 6-7 and 13-27 have been withdrawn from consideration. The restriction requirements were timely traverse by the Applicants in Paper Nos. 5 and 8.

Applicants again respectfully submits that claim 1 is generic, and therefore dependent claims 6 and 7 should remain pending in the application. Accordingly, claims 1, 3-7, 9, 11 and 28-37 are presented for review.

Interview Summary

A personal interview was held on November 28, 2001 with Examiner Stephen Castellano, Michael Jones (appl. rep.), Timothy Blucher (appl.), and David Carlin (appl.). An exemplary contour fit pan liner was demonstrated by Applicants using several standard size food service pans. A videocassette for the contoured fit pan liner was

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delivered to the Examiner. The outstanding office action dated 10/5/01 including the pending claims and art of record were discussed. Some of the specific features discussed included the contoured bottom edge, high temperature applications, use with standard size pans, the pan liner material, a single film pan liner, and a pre-formed bag-shaped pan liner.

The Examiner indicated that the most likely structural differences that he saw between the art of record and the contoured fit pan liner described in the present application were related to: a single layer film drop-in type polymeric pan liner and the contoured bottom edge. Specifically, the Examiner focused on the lack of "dog ear" construction and the number of layers of film or laminations between the present invention and the characteristic rectangle shaped bottom of a satchel type construction of Kugler.

No agreements were reached.

Claim Rejection - 35 U.S.C. §103

1. Claims 1, 9, 11, 28-31, 33, and 35 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ibsch (U.S. Pat. No. 2,542,413) or Ferlanti (U.S. Pat. No. 4,828,134) in view of the M&Q Plastic Products brochure (the M&Q brochure). In the Office Action the Examiner states that "[i]t would have been obvious to replace the liner of Ibsch or Ferlanti with the high temperature nylon resin liner in order to save material cost and manufacturing cost related to forming a contoured liner." In view of the above amendments to independent claims 1, 32, 34, and 36, Applicants respectfully submit that the rejections of Claims 1, 9, 11, 28-31, 33, and 35 is moot because neither Ibsch nor Ferlanti disclose or teach a pan liner having the structure defined in the amended claims. Accordingly, withdrawal of the rejection of claims 1, 9, 11, 28-31, 33, and 35 under 35 U.S.C. §103(a) is requested.

Both Ibsch and Ferlanti disclose a plurality of laminations or sheets. Ibsch discloses a series of laminated *sheets* (as characterized in the claim and shown in the figures) that may be placed over a *plate*, such that food can be placed on the plate and eaten from a number of times without having to wash the plate. In addition, according to Ibsch, the innermost lamination is secured to the inside of the plate by an adhesive which

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secures this lamination 14 to the plate 10 at the junction between the bottom 11 and the rim 12 (see col. 2, lines 29-33). Ferlanti discloses a plurality of metal nested layers, stacked from a lowest one to a highest one. Also, the Examiner states that the pan liner (10) of Ferlanti "is made from a material comprising plastic and is made of metal with a polytetrafluoroethylene (TEFLON) film." Applicants reiterate their argument that a metal substrate having a TEFLON film is not synonymous with a polymeric liner.

Furthermore, it is respectfully submitted that Ibsch does not teach or suggest using the laminated vessel for high temperature applications. Ferlanti does disclose the use of a laminated cooking vessel, however, Ferlanti teaches a plurality of nested metal layers for cooking and actually teaches away for the use of paper or plastics as being too fragile for cooking." (see col. 1, lines 21-24). Accordingly, there is no motivation or suggestion in any of the references to combine the teachings of the various references and therefore withdrawal of this rejection is requested.

Applicant submits that Ibsch and Ferlanti do not disclose or suggest a single layer film drop-in polymeric pan liner having a pre-formed contour fit and a bag-shaped body independent of the pan, that is suitable for food service applications (i.e., including food preparation, service and storage), that includes a contoured bottom edge having a flat bottom edge and contoured edges, wherein the flat bottom edge is joined and merged at each end with one of the contoured edges, and the contoured edges extend outward and upward from the flat bottom edge and are joined and merged at an opposite end with a side wall edge, and that is capable of withstanding a temperature of about 400 °F, all of which is recited in amended claim 1.

Claims 9, 11, and 28-31 are dependent on claim 1 and therefore, it is respectfully submitted that these claims are also non-obvious over the cited references, for the reasons stated above with respect to claim 1. Claims 33 and 35 are dependent from claims 32 and 34, respectively, which recite similar structural limitations as claim 1 and therefore, it is respectfully submitted that these claims are also non-obvious over the cited references. Accordingly, withdrawal of this 103 rejection is believed proper and is respectfully requested.

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Also, in the Office Action the Examiner states that "[i]t would have been obvious to modify the liner to be a single liner if the other liners proved to be unnecessary in order to prevent the waste of liners" This rejection is traversed because this unsupported statement by the Examiner is contrary to the stated purpose and objects of both Ibsch and Ferlanti.

Ibsch states throughout the disclosure that "the invention provide a dish or receptacle which is formed of a plurality of laminations which are detachably secured to a base dish or receptacle so that a clean surface may be provided without washing or otherwise cleaning the article" (see col. 1, lines 2-7; col. 1, lines 8-12; col. 1, lines 13-25; col. 2, lines 9-12; etc.).

Ferlanti similarly states throughout the disclosure that the vessel has a "plurality of nested metal layers" wherein successive ones of the layers can be removed. Once removed, the entire layer can be discarded to expose a clean surface (see col. 1, lines 46-54; col. 1, lines 59-63; col. 2, lines 3, 14, and 20; col. 2, lines 61-65; col. 3, lines 15-25; col. 3, lines 61 and 64; etc.). Ferlanti further states that "a range of two to fifty layers may be employed" (see col. 3, lines 23-25).

Neither Ibsch nor Ferlanti teach or suggest modifying the liner to be a single layer liner if the other liners proved to be unnecessary in order to prevent the waste of liners as stated by the Examiner. Accordingly, withdrawal of this rejection is requested.

In addition, in the Office Action the Examiner states that "official notice is taken that drop-in liner construction is well known." Applicants respectfully request that the Examiner provide an affidavit setting forth the facts in support of this rejection so that the Applicants can formulate an appropriate response to this rejection that is apparently based upon facts within the personal knowledge of the Examiner.

Furthermore, in the Office Action the Examiner states that "[i]t would have been obvious to modify the construction of the liners to be of drop-in construction by not tucking the free edge of the open mouth of the liner beneath the upper edge of the pan in order to provide the convenience of assembling the pan within the liner as quickly and manipulation free as possible to save time. This rejection is traversed.

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Ibsch discloses and teaches a plurality of relatively thin superimposed laminations or covers disposed in a base plate (col. 2, lines 9-12). The innermost lamination is secured to the inside of the plate by means of an adhesive 19 which secures the lamination to the plate. Each succeeding lamination is secured to the next inner lamination by additional rings of adhesive 19, so that all the lamination will be firmly secured together and to the plate in order that the nested laminations will very closely follow the configuration of the plate (col. 2, lines 29-38).

Likewise, Ferlanti each layer in the plurality of nested metal layers has an edge that is folded downwardly and inwardly to provide a border 14, that has a score 16. The score divides each of the layers into a removable strip 18 and a central bed.

Ibsch and Ferlanti disclose that some type of fastening or securing means is required between the plurality of laminations and between the laminations and the plate in order for the multi-layered device to operate properly. Therefore, Ibsch and Ferlanti do not disclose, teach, or suggest a drop-in configuration as recited in the claims of the present application. Accordingly withdrawal of this rejection is requested.

2. Claims 2-5 (dependent from amended claim 1) stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ibsch or Ferlanti in view of the M&Q brochure as applied to claim 1 above, and further in view of Kugler (U.S. Pat. No. 3,549,451). In the Office Action the Examiner states that "[i]t would have been obvious to modify the shape of the Ibsch liner to have the flat bottom edge and two straight edges in order to provide a contoured liner which is quick and easy to manufacture from a length of tubular sheet material while maintaining uniformity in shape. In view of the above amendments to independent claim 1, Applicants respectfully submit that the rejections of Claims 2-5 are moot because Ibsch and Ferlanti do not disclose or teach a pan liner having the structure defined in amended claim 1 and the Kugler reference does not cure the deficiencies of the Ibsch or Ferlanti references.

Kugler discloses a method of producing a plastic satchel bottom bag by burning away a portion of the bag (col. 1, lines 11-16). The bag of Kugler is suggested to be used in the packaging or bagging of bulky items (see col. 1, line 25). The satchel bottom bag disclosed and taught by Kugler comprises "the characteristic rectangular configuration of

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a satchel type construction.” (col. 1, lines 60-61). The satchel bottom bag 10a disclosed by Kugler has an inwardly folded bottom gusset 12 characterized by an outer and inner pair of gusset walls 12a, 12b, respectively, which are joined to each other at opposite ends along 45 degree angled heat seals 14. Also, as disclosed by Kugler the satchel bottom bag construction is characterized by the feature that each on the inner gusset walls 12b, while joined to the respective outer gusset wall 12a at the heat seal 14, are not joined to each other so that when the bag 10a is filled the gusset 12 unfolds into a generally rectangular configuration or bottom for the bag 10a. (col. 2, lines 14-28) These angled heat seals are formed in a single plane defined by the rectangular bottom of the satchel bag.

Kugler does not however, remedy the shortcomings of Ibsch or Ferlanti as stated above. Specifically, Kugler does not disclose a single layer polymeric pan liner that is suitable for food service applications and capable of withstanding a temperature of about 400 °F. Therefore, even assuming that it would have been obvious to modify the Ibsch liner sheet with the disclosed features of Kugler, and Applicant maintains it is not, the modified Ibsch would not result in embodiments of the present invention as claimed in claims 2-5. Thus, Applicant respectfully requests withdrawal of this section 103 rejection.

Claims 2-5 depend from amended claim 1 that recites the features that “the further comprising a pre-formed bag-shaped body independent of said pan, said pre-formed bag-shaped body” and “wherein said contoured bottom edge further comprises a flat bottom edge and contoured edges, wherein said flat bottom edge is joined and merged at each end with one of said contoured edges, and said contoured edges extend outward and upward from said flat bottom edge and are joined and merged at an opposite end with a side wall edge”, which are not disclosed or taught by Ibsch, Ferlanti, and/or Kugler either alone or in combination.

Also, amended claim 2 includes the limitations that “*a single flat bottom edge and only two contoured edges*”. This feature is also not disclosed or taught by Kugler. Claims 3-5 depend from amended claim 2, and therefore, it is respectfully submitted that these claims are also not obvious over the art of record. Accordingly, withdrawal of the rejection of claims 2-5 under 35 U.S.C. § 103(a) is again requested.

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3. Claims 32, 34, 36, and 37 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ibsch or Ferlanti. In the Office Action the Examiner states that "[i]t would have been obvious to modify the shape of the Ibsch liner to have the flat bottom edge and two straight edges in order to provide a contoured liner which is quick and easy to manufacture from a length of tubular sheet material while maintaining uniformity in shape. This rejection is traversed.


Amended claims 32, 34 and 36 all recite one or more features discussed above with reference to claim 1 including a drop-in polymeric pan liner; a single layer film; a pre-formed bag-shaped body, independent of the pan; a contoured bottom edge that does not include dog ear; a closed bottom end comprising a flat bottom edge and contoured edges that extend outward and upward, or in more than one plane; and the like. In view of the above amendments to independent claims 32, 34, and 36, Applicants respectfully submit that claims 32, 34, and 36 (and claim 37 which depends from claim 36) are allowable over Ibsch and/or Ferlanti because these reference do not disclose or teach all of the features recited in the amended claims.

CONCLUSION:

Applicant believes the foregoing represents a complete response to the Office Action, and that the claims in their present form are in condition for allowance. Early and favorable consideration is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**"

Respectfully submitted,


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VERSION WITH MARKINGS TO SHOW CHANGES MADE**IN THE CLAIMS:**

1. (Thrice Amended) A pan liner system for forming an improved barrier between a pan and food disposed therein, said pan liner system comprising:

a pan, said pan comprising:

a bottom panel;

one or more side walls extending upwardly from said bottom panel, said one or more side walls each having a top edge, said top edge defining a pan top opening;

a [single] drop-in polymeric pan liner having a [pre-formed] contour fit and suitable for food service applications disposed within said pan to cover an interior surface of said pan[.];

said contour fit pan liner further comprising a single layer film and a pre-formed bag-shaped body independent of said pan, said pre-formed bag-shaped body comprising:

a contoured bottom edge forming a closed bottom end disposed over said pan proximate said bottom panel;

wherein said contoured bottom edge further comprises a flat bottom edge and contoured edges, wherein said flat bottom edge is joined and merged at each end with one of said contoured edges, and said contoured edges extend outward and upward from said flat bottom edge;

one or more flexible side walls extending upwardly from said contoured bottom [end] edge, wherein said side walls and said bottom end generally cover [an] said interior surface of said pan; and

an open top end, said top end extending upwardly beyond said pan top opening and said liner open top end being folded over said top edge of said one or more side walls of said pan;

wherein said pan liner does not have dog ears formed proximate said closed bottom end, thereby preventing entrapment of food portions; and

wherein said pan liner is capable of withstanding a temperature of about 400 degrees Fahrenheit.

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2. (Amended) The pan liner system of claim 1, wherein said contoured bottom edge further comprises a single flat bottom edge and only two contoured edges[, wherein said flat bottom edge is joined and merged at each end with one of said contoured edges, and said contoured edges extend outward and upward from said flat bottom edge and are joined and merged at an opposite end with a side wall edge].

32. (Amended) A food preparation and service system, comprising:

a standard commercial pan for both preparing and serving food, said pan comprising:

a bottom panel;

one or more side walls extending upwardly from said bottom panel, said one or more side walls each having a top edge, said top edge defining a pan top opening;

a single layer drop-in polymeric pan liner having a pre-formed contour fit disposed within said pan to cover an interior surface of said pan during food preparation and service, said contour fit pan liner comprising:

a contoured bottom edge forming a closed bottom end disposed over said pan proximate said bottom panel, wherein said contoured bottom edge does not have dog ears, thereby reducing entrapment of food portions proximate said contoured bottom edge, said contoured bottom edge further comprising:

one flat bottom edge;

two contoured edges, wherein said flat bottom edge is joined and merged at each end with one of said contoured edges, and said contoured edges extend outward and upward from said flat bottom edge and are joined and merged at an opposite end with a side wall edge;

[one or more] two flexible side walls extending upwardly from said bottom end; wherein said side walls and said bottom end generally cover [an] said interior surface of said pan; and

an open top end, said top end extending upwardly beyond said pan top opening and said liner open top end being folded over said top edge of said one or more side walls of said pan[;

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wherein said pan liner does not have dog ears formed proximate said closed bottom end, thereby preventing entrapment of food portions].

34. (Amended) A food service system, comprising:

a food serving pan comprising:

a bottom panel;

one or more side walls extending upwardly from said bottom panel, said one or more side walls each having a top edge, said top edge defining a pan top opening;

a receptacle formed by said one or more side walls and said bottom panel;

a [single] drop-in polymeric pan liner comprising a single layer film having a pre-formed bag-shaped body independent of said pan and having a contour fit disposed within said pan to cover an interior surface of said pan, said [contour fit pan liner] bag-shaped body comprising:

[a contoured bottom edge forming a closed bottom end disposed over said pan proximate said bottom panel;]

[one or more] two flexible side walls joined at two side wall edges [extending upwardly from said bottom end; wherein said side walls and said bottom end generally cover an interior surface of said pan; and];

a contoured bottom edge that does not include dog ears forming a closed bottom end at a junction of said two flexible sidewalls, wherein said contoured bottom edge further comprises a flat bottom edge that extends in a first plane that is substantially parallel to a plane defined by said bottom panel of said pan and contoured edges that extend in at least one plane that is different than said first plane;

a food holding vessel defined by said two side wall extending upwardly from said closed bottom end, wherein said food holding vessel covers said receptacle of said pan; and

an open top end, said top end extending upwardly beyond said pan top opening and said liner open top end being folded over said top edge of said one or more side walls of said pan[;

wherein said pan liner does not have dog ears formed proximate said closed bottom end, thereby preventing entrapment of food portions].

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36. (Amended) A food and kitchen management system, comprising:

a pan comprising:

a bottom panel;

one or more side walls extending upwardly from said bottom panel to define a receptacle for receiving and holding one or more serving of food], said one or more side walls each having a top edge, said top edge defining a pan top opening];

a top edge on each of said one or more side walls;

a pan top opening formed by said top edge of each of said one or more side walls;

a single layer film drop-in polymeric pan liner for preparing and serving food while disposed within said pan, and for storing remaining food portions for future use, said pan liner comprising:

a pre-formed bag-shaped body comprising:

a contoured bottom edge forming a closed bottom end disposed over said pan proximate said bottom panel;

wherein said contoured bottom edge further comprises one flat bottom edge extending in a first plane and only two contoured edges extending in opposite directions relative to ends of said flat bottom edge and in at least a second plane that is not coplanar with said first plane;

one or more flexible side walls extending upwardly from said closed bottom end;

wherein said side walls and said closed bottom end form a food holding vessel independent of said pan that generally cover an interior surface of said pan; and

an open top end, said top end extending upwardly beyond said pan top opening and said liner open top end being folded over said top edge of said one or more side walls of said pan;

wherein said pan liner does not have dog ears formed proximate said closed bottom end, thereby preventing entrapment of food portions.